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SEC

SERVICE DATE - SEPTEMBER 22, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34462

MVC TRANSPORTATION, LLC – ACQUISITION EXEMPTION –
P&LE PROPERTIES, INC.

Decided: September 21, 2004

By notice filed on April 8, 2004, and served and published in the Federal Register on April 29, 2004 (69 FR 23557), MVC Transportation, LLC (MVC) invoked the Board's class exemption at 49 CFR 1150.31 to acquire from P&LE Properties, Inc. what MVC describes as approximately 15 miles of rail lines located in Allegheny County, PA. MVC states that these rail lines are the track facilities of the former Pittsburgh and Lake Erie Railroad Company's McKees Rocks Yard.

On June 24, 2004, Proline Railroad Track Co. (Proline) filed a petition asking the Board to revoke the exemption. On July 27, MVC replied and asked the Board to consolidate this proceeding with a related proceeding.¹

The petition to revoke raises issues that require further consideration by the Board. By this decision, the Board is instituting a proceeding under 49 U.S.C. 10502(d) to consider Proline's request. The parties do not need to submit additional evidence.

It is ordered:

1. Under 49 U.S.C. 10502(d), a proceeding is instituted to consider Proline's petition to revoke the exemption.

¹ The related proceeding, STB Finance Docket No. 34462 (Sub-No. 1), involves a petition filed by MVC seeking an expedited declaratory order. MVC seeks a declaratory order specifying: (1) that claims by Proline filed in the Common Pleas Court of Allegheny County, PA (Court), challenging MVC's acquisition of the McKees Rocks Yard, constitute a collateral attack on the Board's authorization of the acquisition, and (2) that the Court is without jurisdiction to render the relief sought by Proline.

2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary